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IN THE
Supreme Court of the United States
OCTOBER TERM, 1989

HAROLD and ENID DAVIS,
Petitioners,

v.

UNITED STATES OF AMERICA,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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BRIEF OF THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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HIP

QUESTION PRESENTED

Whether taxpayers' donations sent directly to an ordained missionary acting under the church's control are deductible as charitable contributions under 26 U.S.C. § 170, where such donations are made at the request and under the direction of the missionary's church, in amounts specified by the church, and with the primary purpose and effect of benefitting the church's missionary effort.

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INTEREST OF *AMICUS CURIAE*

The Church of Jesus Christ of Latter-day Saints ("Church"), is recognized by the Internal Revenue Service ("IRS") as an organization eligible to receive tax deductible charitable contributions under Section 170 of the Internal Revenue Code (26 U.S.C.). The Church conducts a world-wide missionary program with over 25,000 full-time unpaid missionaries from the United

States whose necessary expenses are paid generally by donations from their families, friends or other members. This system for financing missionary service was designed to meet the needs of the Church.

The Church has a strong interest in this case because the decision of the Ninth Circuit jeopardizes the charitable contribution tax deduction status of missionary donations being made monthly by members of the Church who are trying to advance the work of the Church. Nondeductibility would force the Church to choose between preserving the beneficial characteristics of its present program and sacrificing Church objectives to qualify the program for tax deductibility in the interest of its members.

The parties have consented to the filing of this brief.

STATEMENT OF THE CASE

As with all ordained missionaries of the Church, the Petitioners' ("Taxpayers") missionary sons were not self-appointed, and their missionary service experience was neither intended nor conducted for their personal benefit. Nor did the Church request Taxpayers to pay their donations directly to the missionaries for the personal benefit of the missionaries, but to accomplish important objectives of the Church. To comprehend to what extent the Church's missionary program, including its preferred method of payment, is oriented strictly toward Church benefit, one must appreciate the place of missionary work in the history and doctrines of the Church.

A. Establishment of the Church's Missionary Traditions

The very first missionary effort by the Church had a family connection. In June, 1830—when the Church had been organized only two months and had barely 50 members—Samuel Smith was appointed by his brother Joseph,

the President of the Church, to "take a missionary journey to the east." He travelled on foot up to 25 miles per day, relying on the hospitality of people he met, or else going without food and sleeping in fields beside the road. His assignment was to distribute copies of the newly-published BOOK OF MORMON [1] and to tell all who would listen of the miraculous restoration, through the Prophet Joseph Smith, of the Church of Jesus Christ.[2]

By October of that first year, the Church had called other missionaries, and assigned them to travel in various directions from its then headquarters in Fayette, New York. Four missionaries were assigned to preach to the American Indians on the western frontier.[3] Travelling mostly on foot in the cold and storms of fall and winter, they preached to Indian tribes in New York, Ohio and Missouri, and to the settlers along the way. The successes of these devoted missionaries opened the door for the Church's eventual move to Kirtland, Ohio.[4] In those early days of the Church, the missionaries included men of all ages, most of whom were married and left behind families. Yet, even then, faithful young men, such as the missionaries in this case, were sent out to perform this sacred service as evidenced by the call of Orson Pratt at the age of 19, in October, 1830.[5]

During the next six years, the Church sent missionaries into most of the eastern states and into parts of Canada,

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[1] The *Book of Mormon* is one of four books of scripture accepted by the Church. The others are the *Holy Bible, Doctrine and Covenants* and *Pearl of Great Price*.

[2] J. F. Smith, *Essentials In Church History* 103-4 (21st ed. 1966).

[3] *Doctrine and Covenants* §§ 28, 30-33 (1830).

[4] J. F. Smith, *Essentials In Church History* at 115-18.

[5] *Doctrine and Covenants* § 34 (1830).

but as yet had not begun to realize its prophetic command to teach the restored gospel "to all nations." [6] Then, in the summer of 1837, Joseph Smith called two of the Church's Twelve Apostles and five other men to leave their families and begin missionary work in Great Britain. They received no financial support from the Church itself, but instead relied upon what little money was donated by their families, new converts or others sympathetic to their service. For example, they had to delay sailing from New York City for two weeks until they received sufficient donations to pay the fare. Upon arriving in England, they continued to rely upon donations and the hospitality of friends and converts for all of their support.[7] The efforts of these missionaries, and of the

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[6] *Id.*, § 42:58 (1831). In the following additional revelations to the Prophet Joseph Smith, the commandment was reiterated:

> Send forth the elders of my church unto the nations which are a far off; unto the islands of the sea; send forth unto foreign lands; call upon all nations . . . .
>
> And this gospel shall be preached unto every nation, and kindred, and tongue and people. *Id.*, § 133:8, 37 (1831).
>
> For it shall come to pass in that day, that every man shall hear the fullness of the gospel in his own tongue, and in his own language, through those who are ordained unto this power, by the administration of the Comforter, shed forth upon them for the revelation of Jesus Christ. *Id.*, § 90:11 (1833).

See also, *Matthew* 24:14: "And this gospel of the kingdom shall be preached in all the world for a witness unto all nations; . . . ."

[7] J. F. Smith, *Essentials In Church History* at 200-203; 1 Millennial Star 12, 289-95 (Apr. 1841).

The following excerpt from an editorial by early Apostle, Parley P. Pratt described how the first missionaries to England, travelling "without purse or scrip," received their financial support:

> Now we would ask,—How shall their expenses be paid? In answer to this we would say that no man should be hired, and thus make preaching a trade. Secondly, No man should go before he is sent. Thirdly, He should not take thought to provide himself purse or scrip, or a quantity of clothing beforehand, so as to be at his own charges, but should go by faith in the promises of that God who sent him. It then becomes

nearly 600 others who were assigned to follow in their path, resulted in the Church's growing to nearly 17,000 members by 1840.[8]

These early missionaries set standards of service, sacrifice and frugality that remain the models for the Church's missionaries today, but it is no longer possible for the missionaries to travel without purse or scrip. Nevertheless, the Church's financing plan for its missionaries still stresses the concept of an unpaid ministry, living at the level of barest necessity, for three very important reasons: First, it reduces the financial burden on families and other contributors. Second, it fosters equality among missionaries whose families represent all levels of economic backgrounds. This equality in the mission field is critical because of the Church practice of requiring missionaries to live and work at all times in pairs (*i.e.*, with "companions").[9] Third, it minimizes distractions, thus increasing the productivity of the missionaries. The Church has found that there is an inverse relationship between a missionary's expenditures and the quality of his or her work. If a missionary spends money beyond

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> the people's duty to feed him, clothe him, entertain him kindly, to bear his expense from place to place, and to aid his family, if he has one, whose circumstances will not enable them to support themselves. 2 Millennial Star 8, 140 (Dec. 1841).

[8] *Deseret News 1989-1990 Church Almanac* 203 (1989).

[9] Since the early 1900's, the majority of the missionaries have been young, single men and women, whose finances were donated, for the most part, by their parents. In 1925, David A. Smith of the Presiding Bishopric stressed the importance of not sending the missionaries too much money, so that "the burden now placed upon many who are struggling to maintain missionaries, who are laboring with companions who have more than they need, will be greatly reduced, and a condition of equality will be more nearly brought about in the mission field." He pointed out that missionaries "who follow as nearly as possible this admonition, are doing the best work." Report of the 95th Annual Conference of The Church of Jesus Christ of Latter-day Saints 112-3 (Apr. 1925).

the necessities contemplated by the thresholds set by the Church (see Appendix A), his or her effectiveness in the work of the Church diminishes.[10]

In order to control missionary costs, the Church sets standards for the amount of money a missionary should need to spend in each mission. The president of each mission throughout the world regularly gathers and updates information as to costs for housing, food and transportation for the missionaries under his supervision. For example, as to housing, he either finds or supervises the finding of apartments for the missionaries to assure that the quarters are safe and clean, but appropriately economical. Frequently, the mission will sign the lease and pay the rent, assessing each missionary for a proportionate share. (This is sometimes necessary to preserve the lease in light of the frequent rotating of missionaries in and out of each area.) Each mission president is thus able to establish a standard for the costs required for a missionary to function in his mission. The missionary is required to report all expenses weekly to the mission president, as a form of agency accountability,[11] and as a means of constraining the missionary to live frugally within that standard.

The mission president reports this expense standard at least monthly to Church headquarters. The Church compiles the reports from all of its 227 missions and constantly updates its master list of mission expense standards. This list is used to inform newly-called missionaries and their parents of the amount needed to fi-

[10] Affidavit of Robert L. Backman, ¶¶ 14, 17 and 21-22. Docket Entry 14; See also n. 9, *supra*.

[11] The Church authorizes its missionaries, as agents, to receive contributions for the support of the Church's missionary program. Letter from the Church's First Presidency (Oct. 13, 1978) (reproduced in Appendix B at 11a).

nance the missionaries' services. The list is also distributed quarterly to every congregation of the Church for the bishops (local ecclesiastical leaders) who have the responsibility to update parents, and to monitor and assist the financing of missionaries from their congregations. Parents and others who contribute are frequently reminded not to give more than the Church standard for the reasons stated above.

B. Nature of a Missionary's Work

Like the pioneer missionaries, today's missionaries face a rigorous schedule of work with essentially no time for personal pleasure, sight-seeing or relaxation. Benjamin and Cecil Davis, like all other missionaries of the Church, were expected to conform to a daily schedule of at least ten hours per day of contacting people about the Church, in addition to their time spent studying and preparing for that work. Benjamin's averages of 70 hours per week meeting and teaching people and ten hours per week in study and preparation were typical of missionaries throughout the Church.[12] Cecil's averages of 60 hours proselytizing and 15 to 25 hours in study and preparation

[12] Elder Gordon B. Hinckley, now First Counsellor in the Church's First Presidency, spoke of the rigors of the work in a sermon to the general membership in 1959:

> [T]here is nothing of a vacation, nothing of a holiday in this great missionary service. It is hard, and at times discouraging, work. Last year our missionaries averaged sixty-seven hours a week in actual proselytizing effort. Let those who contemplate missions realize that they will work as they have never worked before . . . . Report of the 129th Annual Conference of The Church of Jesus Christ of Latter-day Saints 120 (Apr. 1959).

Only individuals willing to accept the work obligations and other conduct limitations dictated by the Church are called to serve as missionaries. If a missionary, once called, fails to conform to the mission standards of conduct, the Church will impose appropriate discipline (including, if necessary, early termination of the appointment to serve).

were consistent with his assignment to the sparsely populated Cook Islands, where he was also required to learn a foreign language.

Missionaries in many parts of the world must also fill ecclesiastical positions within the congregations where they serve. All functions of the Church relating to worship and congregational administration are conducted by the lay membership, for there is no paid clergy in the Church at that level. Consequently, in areas where the Church membership is small and consists largely of recent converts, it is necessary for the missionaries to participate or even preside in the congregational leadership. Thus, missionaries are regularly called upon, not only to seek and teach new converts, but also to organize and conduct worship services, to provide pastoral counselling, to visit the sick and to perform other religious services for members. They are charged with training new members eventually to accept lay ecclesiastical leadership assignments. This labor requires time, patience, maturity and judgment. The Church reposes extraordinary confidence and responsibility in its young missionaries. They are, indeed, ministers of the Gospel.

C. Comparison wiht Other Church Contributions

The Church receives from its members various kinds of contributions. These include tithing (one-tenth of income),[13] fast offerings (monthly donations for the poor), and missionary contributions. All of these are given in the same spirit of willingness, at the request of the Church, solely to advance the religious and charitable purposes of the Church.[14] The latter category, missionary contributions, consists of two main kinds: (1) donations by parents to pay the costs of their child's missionary services, and (2) donations by other members to a Church-administered fund to pay the costs of services provided by missionaries whose parents are unable or unwilling to pay the full amount needed. Both are gifts for the support of the Church's missionary program. The Church believes that the donor of a child's costs of missionary service should receive the same tax treatment as the donor to a Church fund whose money will be sent to a missionary unknown to the donor—perhaps the companion of the first donor's son or daughter. Each donor has made an identical contribution to advance the Church's program and interests. Neither donor contributes in order to benefit the missionary; both donors give to enable a missionary to render vital services to the Church. In the hands of the two missionary companions, the funds are used identically. They receive the same modest amount specified by the Church and they both obey all the same Church-imposed rules of conduct and financial accountability.

In addition to the monetary giving described above, there is an aspect of non-monetary giving that is important to the Church and which is highlighted by this case. The Church, like most religions and other charities, depends heavily upon the time, talents and energy of service volunteers, for nearly half of the adult members serve in some volunteer capacity at the request of the Church. All of this donated service to the Church is in addition to attendance at worship services, Sunday

[13] *Doctrine and Covenants* § 119 (1838). Neither membership nor privileges, rites or positions within the Church are obtained by paying tithing. While most appointments to service (including missionary service), and participation in certain sacred rites, are conditioned upon a member's worthiness, the faithful payment of tithing is only one of many factors in determining worthiness. Furthermore, the amount of tithing paid is irrelevant in that regard; the question being only as to obedience to Church doctrine.

[14] All of the foregoing donations, which primarily benefit the Church, are readily distinguishable from payments made primarily for the benefit of the payors or their family, such as school tuition, purchase of religious books for personal study, or purchase of food or other items at fund raising events, all of which are non-deductible.

School, temple worship, scripture study and prayer which are the basic elements of personal worship within the Church.

The full-time missionaries are similar to these other members in that they donate their time with no expectation of reward or personal benefit in return. But they are different in that their call to serve takes them away from home and requires their full-time devotion to the duties of the call. This necessitates their being provided with financial support—not compensation but the necessities of survival.[15] Neither the missionaries nor any of the other volunteers within the Church claim any charitable contribution for the value of their donated time. Yet somebody has to pay for the expenses necessarily incurred by the missionaries. Just as the time of the missionary is a donation to the Church, even so, the cash payments to enable the giving of that time and service are also donations to the Church.

D. The Purpose of the Program Is to Benefit the Church

The money contributed by the parents as well as the services rendered by the missionaries redound solely to the benefit of the Church. As demonstrated above, missionary work is clearly commanded by the basic tenets of the Church. The Church receives from each missionary 85 to 90 hours per week of direct services and time spent in preparation to serve. The Church decides where each missionary will serve according to its needs. The missionaries preach, teach, provide local leadership, minister to the spiritual needs of people (members and nonmembers), and do anything else the Church requires. These are the benefits rendered to the Church by the services of the missionaries. The monetary contributions by the parents and other donors confer supplemental

[15] In 1841, Apostle Parley P. Pratt declared of missionaries: ". . . no man should be hired, and thus make preaching a trade." 2 Millennial Star, *supra*; see n. 7.

benefits on the Church by relieving the Church of the costs necessarily incident to the missionary services.

While it is true that a missionary may mature and develop self confidence while on a mission, that intangible benefit, like the personal growth received from any other genuinely charitable activity, is totally incidental to the selfless donation of time and energy in service to the Church. The missionary is called by the Church because the Church needs his or her services in its worldwide mission, and not because it wants to provide a special experience and training for the missionary. The paradox of all charitable service applies here, namely, that a missionary's personal growth derives from laboring to benefit others, not to benefit self. In the words of Christ: "For whosoever will save his life shall lose it: but whosoever will lose his life for my sake, the same shall save it." [16] Finally, any growth which does come is not purchased by the parents' donation, but springs from the missionary's donated labor and sacrifices.

Missionary service cannot be compared to schooling, for the mission does not prepare the missionary for any gainful employment, nor is it a prerequisite to any other callings in the Church. The missionary receives no educational credits for mission service. On the contrary, a mission represents an interruption in schooling.

E. Reasons the Church Prefers Direct Payment

The Church prefers payment for missionary expenses to be made directly from the parents to the missionary. The reasons are solidly grounded on important Church objectives.

1. Tradition

As with any religion, the Church draws strength from its traditions, especially those developed during its times of hardship. Not only is the missionary service donated

[16] *Luke* 9:24.

by the young missionaries a fundamental part of that religious lore, but so is the system whereby the financing of that service comes from family and friends directly in connection with the service. To finance the missionary service from general funds of the Church, donated with no connection to the performance of the services, would eliminate an element of the donor's involvement in the service itself, which is important to the vitality of the Church's sacred traditions.

2. Family Connection to Service Builds Faith

For 160 years, families have furnished the missionary force of the Church. In the beginning, wives and children sent their husbands and fathers—sending them money to keep them alive, and willingly going without at home out of sheer devotion to the Church. Today, fathers, mothers and siblings sacrifice at home, so that a brother or sister can give two full years of service to the Church. The Church has found that a family's faith, its commitment to the Church's rites, commandments and doctrines, is immeasurably strengthened through the sacrifices made in directly participating in the missionary service through financial contributions. This has always been an important factor in the strength and vitality of the Church.

3. Keeps the Missionary Frugal

The Church has proved through long experience that its missionaries can live adequately on amounts far less than employees expect as per diem allowances from an employer.[17] Although this is primarily due to the close

[17] The federal amount allowable daily for rent and food within the United States is at least $66.00 but rises to $141.00 in New York City. By contrast missionaries in the United States spend at least $7.76 per day, with the high being $13.58 in New Hampshire. The missionary amounts include not only rent and food, but also Church educational pamphlets and other incidental costs. Internationally the difference between Church requested amounts and the allowable federal per diem is even greater. See Appendix A for comparisons.

control exercised over the missionary's finances by the Church, the missionaries' awareness that their services require a financial sacrifice from their loved ones at home is also an important factor. Thus, missionaries conscientiously keep their expenses to a minimum, and avoid any non-missionary activities that would enlarge the burden upon their families. It is unlikely that the missionaries would maintain the same frugality if their finances came from the more remote and impersonal institution of the Church itself.

4. Helps Avoid Tax & Visa Problems in Foreign Countries

To obtain visas in many foreign countries, missionaries must demonstrate (1) that they will be "sponsored" by donated funds from the home country (no welfare burden on the host country), and (2) that they will not be employed in the host country (no competition for host country jobs). The Church's direct payment method of financing missionary service satisfies both of those requirements. It also avoids any controversy as to whether the missionaries' funds might be taxable income in the host country. Changing to a system in which all missionary donations would be paid to the Church and then disbursed to the missionaries would raise serious questions in some countries as to the missionaries' status for visa and/or income tax purposes. This is an unnecessary burden to impose upon the Church's purely religious program.

5. Reduces Administrative Burdens and Costs

The present Church system of having most missionary contributions paid directly to the missionaries results in very significant cost and labor savings for the Church. Changing that system would impose administrative, accounting and personnel costs at the headquarters level of the Church, as well as administrative burdens upon ecclesiastical officers at the congregational level. The ad-

ditional hours of local leader involvement, and the added headquarters costs, that would be required to double, triple or further multiply the number of times each of the thousands of missionary contributions must be handled each month would be staggering. Such a change would unnecessarily add a layer of bureaucratic expense to a vital program that is already a financial burden for the Church and its members.

6. Responds to Change in Location or Needs

Generally, each missionary is moved from one area to another every three to six months. In addition, certain mission assignments, such as those involving use of a car, require the missionary to receive supplemental financial support. Through weekly letters from the missionaries, the parents learn of these changes faster than either the local Church leaders or Church headquarters. Therefore, the direct payment method of financing missionary service is the most efficient way for parents to respond to such changes in needs. On the spartan budget of a missionary, failing to receive sufficient funds on time would be extremely disruptive of the work and morale. The present system also makes it easier to respond to changing locations and financial needs.

SUMMARY OF ARGUMENT

The proper test to determine whether payments are "to or for the use of" a recognized charity is whether the charity receives the primary benefit of the payments. Whether the charity receives possession or not is irrelevant. Neither the lower court nor the IRS disputed the indisputable fact that the intended and actual primary beneficiary of the Taxpayers' payments was the Church. The same is true of missionary contributions from thousands of the Church's faithful members.

The Church does not come into actual physical possession of most missionary contributions. The Church does, however, exercise control in many ways over the recipient missionaries, over the manner in which the

money is spent, and even over the amount and timing of the donations. The degree of control exercised by the Church is sufficient to satisfy the statutory standard of a gift "to or for the use of" the Church.

The suggestion by the IRS to the courts of appeals that the direct payment might be subject to abuses lacks any substance. There is no evidence of such abuses in the Tenth or Fifth Circuits, where deductions similar to those at issue here have been permitted. Even more important, this case deals with the practices of only one Church, whose policies and procedures—particularly those resting on the Church's objective to keep missionary expenses as low as possible—are an effective safeguard against abuse.

ARGUMENT

I. BECAUSE THE CHURCH RECEIVED THE PRIMARY BENEFIT OF THE TAXPAYERS' MISSIONARY DONATIONS, THE GIFTS WERE "TO OR FOR THE USE OF" THE CHURCH, AND ARE THEREFORE DEDUCTIBLE

This court's decision in *Duberstein* v. *Commissioner*, 363 U.S. 278 (1960), defining the term "gift" in another context, is instructive in this case. There, the government's proposed adoption of a mechanical test was rejected, in favor of applying the court's "experience with the mainsprings of human conduct to the totality of the facts of each case." *Duberstein*'s teachings have since been regularly applied to Section 170 cases.[18] Yet the lower court, at the urging of the government, proposes a mechanical test here to the effect that the contributions at issue cannot be deductible unless they are placed in the physical possession of the Church. Respectfully, the Church maintains that such a rule exalts form over substance, ignoring the totality of the

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[18] For example, see *Dejong* v. *Commissioner*, 309 F.2d 373, 379 (9th Cir. 1962) which first applied *Duberstein* to a Section 170 case.

facts here which clearly demonstrate that the Church received the primary benefit of the Taxpayers' gifts. Neither the IRS nor the two lower courts in this case denied that the Church was the true beneficiary, but all slavishly held to the mechanical test of possession.

As this court declared in *Helvering* v. *Bliss*, 293 U.S. 144 (1934), the charitable contribution deduction was added to the law "to encourage gifts to religious, educational and other charitable objects . . .," and being "begotten from motives of public policy, [is] not to be narrowly construed." The decision of the Ninth Circuit so narrowly construes the requirements of Section 170 by insisting on physical possession of the donated money by the Church, that it ignores both the primary charitable benefit present and the plain "to or for the use of" language of the statute.

The Church's understanding of the foregoing principles finds support in *White* v. *United States*, 725 F.2d 1269 (10th Cir. 1984), which held that payments essentially identical to those under consideration here were deductible. Noting that the government's proposed test of control by the charity over the expenditure of funds "has never been applied to expenses incurred by a taxpayer performing services for a bona fide organization," [19] that court held that "transportation and living expenses of a missionary serving far from home are deductible . . . because the expenditures primarily benefit the church and not the spender . . . [or] the person whose expenses are being paid." [20] *White*, 725 F.2d at 1271-2.

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[19] Citing, *Rockefeller* v. *Commissioner*, 676 F.2d 35 (2nd Cir. 1982); *Archbold* v. *United States*, 444 F.2d 1120 (Ct. Cl. 1971); *Sampson* v. *Commissioner*, 43 T.C.M. (CCH) 1408 (1982); and B. Bittker, *Federal Taxation of Income, Estates and Gifts* ¶ 35.12 n.14 (1981).

[20] Citing, *Dowell* v. *United States*, 553 F.2d 1233, 1238 (10th Cir. 1977); and *Smith* v. *Commissioner*, 60 T.C. 988 (1973). See also, *Winn* v. *Commissioner*, 595 F.2d 1060 (5th Cir. 1979); and *Morey* v. *Riddell*, 205 F. Supp. 918 (S.D. Ca. 1962).

The above cases, and those cited in n. 19, *supra*, all involved payments to permit a named person to render services to a charity. They are all readily distinguishable on the basis of primary charitable benefit from cases involving payments to obtain benefits for the donor or a named person. See *Hernandez* v. *Commissioner*, 109 S. Ct. 2136 (1989); *Tripp* v. *Commissioner*, 337 F.2d 432 (7th Cir. 1964); and *Thomason* v. *Commissioner*, 2 T.C. 441 (1943).

The Church's position, urging a focus on whether the primary benefit is to the Church, is also in harmony with *Rockefeller* v. *Commissioner*, 676 F.2d 35 (2nd Cir. 1982), *aff'g*, 76 T.C. 178 (1981), which considered the deductibility limits of certain payments to individuals for expenses incident to their giving services to various charities. Except for the kinds of charities served (there is no indication that *Rockefeller* involved missionary services to a church), that case is essentially identical to this case. The Second Circuit and the Tax Court both ruled that the contributions paid directly to individuals in that case were contributions to the various charities. For example, the Tax Court found:

> Unreimbursed expenses made incident to the rendition of services to charitable organizations have long been recognized as charitable contributions . . . . As we understand the facts, the payments were made for services that were rendered directly to charities which were the immediate beneficiaries of services. Had the petitioners made the payments directly to the charities and the charities had paid for the services, there would seem to be little question that the payments would qualify for the unlimited deduction. We see no reason why this arrangement should be treated differently. (*Rockefeller* v. *Commissioner*, 76 T.C. 178 (1981).)

Neither court in *Rockefeller* regarded the lack of physical possession of the money by the charities as being controlling or even significant. Instead, where the pay-

ments were to obtain services for the charities, the method of payment was regarded as an issue of form and not of substance. Again, this is an appropriate application of the *Duberstein* injunction to search out the true nature of a transaction and to avoid reliance upon a talisman.

II. THE CHURCH EXERCISED SUFFICIENT CONTROL OVER THE DONATED FUNDS, TO QUALIFY THE CONTRIBUTIONS FOR DEDUCTIBILITY EVEN WITHOUT HAVING PHYSICAL POSSESSION

Although the Fifth Circuit in *Brinley v. Commissioner*, 782 F.2d 1326 (5th Cir. 1986), *rev'g*, 82 T.C. 932 (1984) (a case with identical facts), accepted the primary benefit test as articulated by the Tenth Circuit in *White*,[21] it offered an independent, alternative test based on the charity's control of the donated funds, without requiring physical possession by the charity:

> The Brinleys have repeatedly cautioned this Court against exalting "form over substance" in arguing that *Winn*, *supra*, should not be construed to require actual or physical control over the donated funds. We agree.
>
> . . .
>
> [W]e conclude that control would be established in the present case, and that the Brinleys would be entitled to a charitable deduction, if the Brinleys

[21] [W]e conclude that *White* is correct in holding that it was not necessary for the LDS Church to have control over the funds given directly to its missionaries in order to support charitable contribution deductions under § 170. As the Brinleys correctly note, the standard in this Circuit for determining the deductibility of expenditures incurred in the service of charity is one of causation: "The charitable work must be the cause of the payment in order for the payment to be deductible." *Orr* v. *United States*, 343 F.2d 553, 557 (5th Cir. 1965). *Brinley*, 782 F.2d at 1330-31.

> can show that the Church requested them to make specific payments and that they responded to these specific requests. . . . In this manner, the Church retains control and discretion as to the use of the donated funds.

Brinley, 782 F.2d at 1335.[22] The Church has demonstrated that its control over the financial arrangements of its missionaries has all of the elements required in *Brinley*, and more. Therefore, the contributions at issue here should be deductible by reason of the alternative non-possessory control test announced by the Fifth Circuit.

III. WHERE NO ABUSE BY PARTIES TO THE GIFTS AT ISSUE HAS BEEN PROVED OR ALLEGED, SPECULATIVE FEAR OF ABUSES BY OTHERS IS NOT A VALID BASIS ON WHICH TO DENY THE DEDUCTIBILITY OF THESE CONTRIBUTIONS

The Church shares the IRS' concern that the administration of the revenue laws be fair, efficient, and even-handed. The deductibility of contributions to the Church's missionaries poses no threat to that shared objective.

A. No Abuse Has Been Alleged in the 5 Years Since *White*

It has been more than five years since the Tenth Circuit published its decision in *White*. Yet, the Church

[22] See also, *Sampson* v. *Commissioner*, T.C. Memo 1982-276, in which the Tax Court stated:

> Respondent makes much of the fact that had petitioner donated the funds directly to the Attorney General's or the sheriff's offices, they would have been appropriated by the legislature. . . . [H]owever, there is no requirement that the exempt organization control the performance of the charitable services or the related expenditures. Further, the hypothetical possibility that the legislature may have diverted the funds elsewhere does not make them and the underlying services any less related to and in furtherance of the State and County's basic function of law enforcement.

is unaware of any instances of abuse involving contributors to its missionary program, or involving other taxpayers trying to devise a scheme based on the ruling in *White*. The reason is that the tax avoidance and private gains would be too small in relation to the costs for anyone to fashion an abusive scheme for personal benefit where (1) a *bona fide* church requests specific minimal amounts to be sent to specific full-time missionaries chosen by the church, (2) as part of a program which requires services from the missionaries far in excess of the value of the money sent, and (3) for its own purposes and in its own interest, the church closely supervises both the missionary and the missionary's use of the donated funds. Because the Church's missionary program is carefully controlled and demands sacrifice from the missionaries, it is unsuitable for abuse.

B. Approval of the Deduction at Bar Could Be Done Within a Framework Meeting IRS Needs

In its brief supporting the grant of certiorari the government argued that donations must be paid directly to charities so that:

> . . . the IRS can seek to confirm whether such contributions are actually being used for charitable purposes by examining the activities of a limited number of pre-qualified charitable recipients. Government's Brief at 8.

This implies that the *only* alternative to charity possession of all contributions is a world in which charities would have *no* control and which would require the IRS to audit massive numbers of taxpayers. The government's assertion ignores the large range of alternatives, including those suggested by this case, which lie between the extremes.

This case does not require a holding allowing deductibility for all expenditures in any way related to services which might benefit a charity. The taxpayers seek only a narrow holding that payments made (1) at the request of the Church, (2) in the modest amounts specified by the Church, (3) to a missionary designated in advance by the Church, and (4) as part of a program where the Church controls both the missionary and his/her use of the donations, are deductible, notwithstanding that the Church did not have actual possession of the money.

Under such a holding, the IRS could effectively monitor the deduction by reviewing the charity's activities at the program level. This is no different than the IRS has already done for non-church programs in approving deductions for gifts given directly to individuals selected by a charity (1) in disaster relief programs described in Rev. Rul. 66-10, 1966-1 C.B. 47; (2) in an unwed mother program in Rev. Rul. 69-473, 1969-2 C.B. 37; or (3) in the Big Brothers/Big Sisters program in Rev. Rul. 70-519, 1970-2 C.B. 62.

Furthermore, auditing contributions to the Church's program is not as difficult as suggested by the IRS. The Church's official "call" letter and related correspondence, sent to every missionary, specifies the mission to which he/she has been called, the period of requested service (including the date the mission is to commence), and the amount of monthly donations required for the particular mission. The Church also publishes a quarterly update of the amounts requested for each mission. In its own interest, the Church keeps these amounts low, as can be seen from Appendix A. Who but a Mormon Missionary could live today for $400 per month in New York City or $360 per month in Washington, D.C.? With these documents an auditor could easily verify that the recipient of the missionary donations was in fact a Church missionary and that the donations were in line with the amounts requested by the Church. In summary, the IRS' best ally in ensuring efficient administration of the tax

law, as it applies to missionary contributions, is the Church itself, because of the shared objectives to keep missionary expenses as low as possible and to assure that all contributions are used exclusively for Church purposes. The Church's present system of financing its missionary services is the most effective way to meet both of these objectives.

C. The Church Exercises the Same Substantial Control Whether Donations Are Given Directly to the Missionary or Directly to the Church

A careful appraisal of the Church's program shows an extraordinary level of control over of the missionaries' actual expenditures as well as their activities. The Church selects the missionary, determines the amount he/she needs and requests donors to make the necessary donations. The missionary receives frequent instructions from the Church on the proper use of the donated funds and agrees to follow those instructions. Each missionary always has a companion who reinforces the resolve to obey Church instructions. The missionary makes a weekly and a monthly report of all expenditures to the mission president. If the amount spent exceeds the amount expected the missionary is required to explain the difference in detail.

Moreover, in some circumstances the Church, through its mission presidents, actually takes control of some of the missionaries' funds. This practice occurs when there is a need to equalize certain kinds of expenses as between missionaries in a given mission, such as rent and other living costs which vary widely between rural and urban areas within a mission.[23] It may also be invoked to equalize travel costs among missionaries. This is an important way in which the Church exercises control of the money in pursuit of the Church's needs. The Church's

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[23] Deposition of Benjamin Davis, at 13 (Nov. 6, 1986).

success in restraining costs is additional proof of the effectiveness of the Church's control of the missionary contributions.

The control just described is the same whether a missionary receives the funds directly from a donor, in response to the Church's request, or from the Church's pool of undesignated contributions. The Church's real control is not increased by physical receipt of the donation. After 160 years' experience in operating its missionary program the Church has proven its present system to be efficient and beneficial to advancement of its work.

CONCLUSION

Allowing deduction of the contributions in the instant case is proper under the rationale of *Duberstein*, consistent with the language of the statute and carries out the intent of Congress to encourage works of charity and religion. Therefore, the opinion of the Ninth Circuit should be reversed with a narrow ruling applicable only to *bona fide* missionary programs such as the Church's.

Respectfully submitted,

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December 28, 1989

APPENDICES

APPENDIX A

COMPARISON OF TYPICAL U.S. MISSIONARY ALLOWANCES TO FEDERAL PER DIEMS (PER FEDERAL TRAVEL REGULATIONS OCTOBER 9, 1989—CHURCH OCTOBER 31, 1989, LIST)

	DAILY		MONTHLY		PERCENT COMPARISON	
	Mission Allowance	Federal Per Diem	Mission Allowance	Federal Per Diem	City [1]	State [2]
Phoenix, AZ	$11.18	$ 78.00	$340.00	$2,372.50	698%	617%
Los Angeles, CA	9.04	114.00	275.00	3,467.50	1261%	785%
Oakland, CA	12.82	98.00	390.00	2,980.83	764%	559%
Denver, CO	12.33	99.00	375.00	3,011.25	803%	560%
Tampa, FL	13.48	78.00	410.00	2,372.50	579%	497%
Atlanta, GA	11.05	106.00	336.00	3,224.17	960%	607%
Honolulu, HI	11.84	126.00	360.00	3,832.50	1065%	642%
Boise, ID	9.86	72.00	300.00	2,190.00	730%	700%
Chicago, IL	12.59	117.00	383.00	3,558.75	929%	532%
Peoria, IL	11.54	81.30	351.00	2,463.75	702%	581%
Des Moines, IA	10.68	76.00	325.00	2,311.67	711%	627%
Lansing, MI	12.10	74.00	368.00	2,250.83	612%	562%
St. Louis, MO	11.93	85.00	363.00	2,585.42	712%	578%
Manchester, NH	13.58	85.00	413.00	2,585.42	626%	567%
Morristown, NJ	12.99	88.00	395.00	2,676.67	678%	547%
New York, NY	13.15	141.00	400.00	4,288.75	1072%	509%

	DAILY		MONTHLY		PERCENT COMPARISON	
	Mission Allowance	Federal Per Diem	Mission Allowance	Federal Per Diem	City [1]	State [2]
Rochester, NY	10.52	89.00	320.00	2,707.08	846%	637%
Cleveland, OH	12.82	93.00	390.00	2,828.75	725%	523%
Tulsa, OK	10.62	71.00	323.00	2,159.58	669%	622%
Harrisburg, PA	9.96	88.00	303.00	2,676.67	883%	663%
Nashville, TN	13.15	78.00	400.00	2,372.50	593%	502%
San Antonio, TX	10.75	76.00	327.00	2,311.67	707%	614%
Ogden, UT	9.17	86.00	279.00	2,615.83	938%	710%
Salt Lake City, UT	7.76	86.00	236.00	2,615.83	1108%	851%
Roanoke, VA	11.24	75.00	342.00	2,281.25	667%	631%
Spokane, WA	10.85	73.00	330.00	2,220.42	673%	608%

[1] Percentage is Federal per diem for the city divided by the mission expense. (High = 1261%; Low = 579%; Median = 711%)

[2] Percentage is lowest Federal per diem for the state divided by the mission expense (High = 851%; Low = 497%; Median = 597%)

COMPARISON OF TYPICAL INTERNATIONAL MISSIONARY ALLOWANCES TO FEDERAL PER DIEMS (PER FEDERAL TRAVEL REGULATIONS OCTOBER 9, 1989—CHURCH OCTOBER 31, 1989, LIST)

	DAILY		MONTHLY		PERCENT COMPARISON	
	Mission Allowance	Federal Per Diem	Mission Allowance	Federal Per Diem	City [3]	Country [4]
Buenos Aires, Argentina N.	6.58	106.00	200.00	3,224.17	1612%	563%
Cordoba, Argentina	4.60	37.00	140.00	1,125.42	804%	804%
Melbourne, Australia	11.38	123.00	346.00	3,741.25	1081%	949%
Brussels, Belguim	15.62	140.00	475.00	4,258.33	896%	531%
Belize	4.93	96.00	150.00	2,920.00	1947%	1947%
Cochabamba, Bolivia	4.93	76.00	150.00	2,311.67	1541%	933%
Fortaleza, Brazil	3.95	76.00	120.00	2,311.67	1926%	1571%
Calgary, Canada	11.74	114.00	357.00	3,467.50	971%	588%
Halifax, Canada	12.39	119.00	377.00	3,619.58	960%	557%
Montreal, Canada	12.00	127.00	365.00	3,862.92	1058%	575%
Osorno, Chile	4.93	69.00	150.00	2,098.75	1399%	1399%
London, England S.	18.67	172.00	568.00	5,231.67	921%	514%
Manchester, England	12.46	103.00	379.00	3,132.92	827%	770%
Bordeaux, France	13.25	110.00	403.00	3,345.83	830%	830%
Frankfurt, Germany	15.35	137.00	467.00	4,167.08	892%	449%
Quetzaltenango, Guatemala	3.62	49.00	110.00	1,490.42	1355%	1355%
Hong Kong	9.83	160.00	299.00	4,866.67	1628%	1628%
Iceland	11.41	125.00	347.00	3,802.08	1096%	1096%
Dubland, Ireland	12.82	149.00	390.00	3,771.67	1162%	967%
Fukuoka, Japan	13.71	205.00	417.00	6,235.42	1495%	759%
Nagoya, Japan	13.15	179.00	400.00	5,444.58	1361%	791%

	DAILY		MONTHLY		PERCENT COMPARISON	
	Allowance Mission	Federal Per Diem	Mission Allowance	Federal Per Diem	City [5]	Country [6]
Pusan, Korea	11.18	140.00	340.00	4,258.33	1252%	716%
Taejom, Korea	10.68	140.00*	325.00	2,433.33	1310%	749%
Chihuahua, Mexico	4.11	82.00	125.00	2,494.17	1995%	1314%
Mexico City, Mexico S.	3.52	102.00	107.00	3,102.50	2900%	1535%
Tuxtla-Gutierrez, Mexico	4.04	54.00	123.00	1,642.50	1335%	1335%
Lima, Peru	1.87	98.00	57.00	2,980.83	5230%	2348%
Trujello, Peru	1.18	44.00	36.00	1,338.33	3718%	3718%
Davao City, Philippines	5.31	42.00	192.00	1,277.50	1283%	665%
Quezon City, Philippines W.	7.40	42.00	225.00	1,277.50	568%	568%
Mascarene Is., Reunion	12.66	131.00	385.00	3,984.58	1035%	1035%
Geneva, Switzerland	15.81	158.00	481.00	4,805.83	999%	790%
Bangkok, Thailand	9.01	117.00	274.00	3,558.75	1299%	377%
Tonga	2.63	76.00	80.00	2,311.67	2890%	2890%
Caracas, Venezuela	4.93	114.00	150.00	3,467.50	2312%	1724%
Apia, Western Samoa	3.19	110.00	97.00	3,345.83	3449%	3449%

[5] Percentage is Federal per diem (without government facilities) for the city where mission headquarters is located divided by the mission amount. (High = 5230%; Low = 568%; Median = 1325%)

[6] Percentage is lowest Federal per diem (without government facilities) for the country where mission headquarters is located divided by the mission amount. (High = 3718%; Low = 377%; Median = 875%)

31 October 1989

AVERAGE MONTHLY COST PER SINGLE MISSIONARY FOR MONTHS JULY, AUGUST, SEPTEMBER, 1989

Mission	Average	Mission	Average
Alabama Birmingham	$355.00	Belize	$150.00
Alaska Anchorage	462.00	Boliva Cochabamba	150.00
Argentina Bahia Blanca	197.00	Bolivia La Paz	136.00
Argentina Buenos Aires North	200.00	Brazil Belo Horizonte	120.00
Argentina Buenos Aires South	145.00	Brazil Brasilia	158.00
Argentina Cordoba	140.00	Brazil Campinas	103.00
Argentina Rosario	182.00	Brazil Curitiba	106.00
Argentina Salta	172.00	Brazil Fortaleza	120.00
Arizona Phoenix	340.00	Brazil Porto Alegre	120.00
Arizona Tempe	325.00	Brazil Recife	103.00
Arkansas Little Rock	361.00	Brazil Rio de Janeiro	133.00
Australia Adelaide	372.00	Brazil Sao Paulo North	123.00
Australia Brisbane	340.00	Brazil Sao Paulo South	132.00
Australia Melbourne	346.00	California Anaheim	275.00
Australia Perth	321.00	California Arcadia	310.00
Australia Sydney	346.00	California Fresno	374.00
Austria Vienna	388.00	California Los Angeles	275.00
Austria Vienna East	290.00	California Oakland	390.00
Belgium Brussels	475.00	California Sacramento	300.00

AVERAGE MONTHLY COST PER SINGLE MISSIONARY
FOR MONTHS JULY, AUGUST, SEPTEMBER, 1989

Mission	Average
California San Bernardino	$333.00
California San Diego	279.00
California San Jose	341.00
California Santa Rosa	351.00
California Ventura	347.00
Canada Calgary	357.00
Canada Halifax	377.00
Canada Montreal	365.00
Canada Toronto	360.00
Canada Vancouver	368.00
Canada Winnipeg	360.00
Chile Antofagasta	150.00
Chile Concepcion	135.00
Chile Osorno	150.00
Chile Santiago North	140.00
Chile Santiago South	140.00
Chile Vina Del Mar	175.00
Colombia Barranquilla	131.00
Colombia Bogota	140.00
Colombia Cali	108.00
Colorado Denver	$375.00
Connecticut Hartford	387.00
Costa Rica San Jose	185.00
Denmark Copenhagen	334.00
Denmark Copenhagen Iceland	347.00
Dominican Republic Santiago	207.00
Dominican Republic Santo Dom.	215.00
Ecuador Guayaquil	160.00
Ecuador Quito	96.00
Salvador San Salvador	67.00
England Bristol	462.00
England Coventry	435.00
England Leeds	330.00
England London	520.00
England London South	568.00
England Manchester	379.00
Fiji Suva	245.00
Fiji—Kiribati	143.00
Fiji—New Caledonia	293.00
Fiji—Vanuatu	260.00
Finland Helsinki	400.00

Mission	Average
Florida Ft. Lauderdale	$399.00
Florida Jacksonville	370.00
Florida Tallahassee	353.00
Florida Tampa	410.00
France Bordeaux	403.00
France Paris	404.00
Georgia Atlanta	336.00
Germany DR Dresden	238.00
Germany Frankfurt	467.00
Germany Hamburg	395.00
Germany Munich	398.00
Ghana Accra	103.00
Guatemala Guatemala City No.	155.00
Guatemala Guatemala City So.	180.00
Guatemala Quetzaltenango	110.00
Haiti Port-au-prince	292.00
Hawaii Honolulu	360.00
Honduras Tegucigalpa	143.00
Hong Kong	299.00
Idaho Boise	300.00
Illinois Chicago	383.00
Illinois Peoria	351.00
India	77.00
Indiana Indianapolis	340.00
Iowa Des Moines	$325.00
Ireland Dublin	390.00
Italy Catania	353.00
Italy Milan	354.00
Italy Rome	390.00
Jamaica Kingston	322.00
Japan Fukuoka	417.00
Japan Kobe	400.00
Japan Nagoya	400.00
Japan Okayama	420.00
Japan Osaka	400.00
Japan Sapporo	411.00
Japan Sendai	342.00
Japan Tokyo North	423.00
Japan Tokyo South	414.00
Kentucky Louisville	310.00
Korea Pusan	340.00
Korea Seoul	345.00
Korea Seoul West	343.00
Korea Taejon	325.00
Liberia Monrovia	146.00
Louisiana Baton Rouge	323.00
Luxembourg	500.00
Malaysia	151.00

AVERAGE MONTHLY COST PER SINGLE MISSIONARY
FOR MONTHS JULY, AUGUST, SEPTEMBER, 1989

Mission	Average
Malta	$350.00
Mascarene Islands	385.00
Massachusetts Boston	413.00
Mauritius	297.00
Mexico Chihuahua	125.00
Mexico Guadalajara	110.00
Mexico Hermosillo	100.00
Mexico Mazatlan	120.00
Mexico Merida	119.00
Mexico Mexico City East	93.00
Mexico Mexico City North	103.00
Mexico Mexico City South	107.00
Mexico Monterrey	139.00
Mexico Puebla	105.00
Mexico Queretaro	115.00
Mexico Tampico	105.00
Mexico Torreon	95.00
Mexico Tuxtla-Gutierrez	123.00
Mexico Veracruz	95.00
Michigan Dearborn	353.00
Michigan Lansing	$368.00
Micronesia Guam	330.00
Minnesota Minneapolis	375.00
Mississippi Jackson	300.00
Missouri Independence	380.00
Missouri St. Louis	363.00
Montana Billings	325.00
Netherlands Amsterdam	400.00
Nevada Las Vegas	313.00
New Hampshire Manchester	413.00
New Jersey Morristown	395.00
New Mexico Albuquerque	332.00
New York New York	400.00
New York Rochester	320.00
New Zealand Auckland	350.00
New Zealand Christchurch	298.00
Nicaragua	180.00
Nigeria Aba	105.00
Nigeria Lagos	110.00
North Carolina Charlotte	347.00

Mission	Average
North Carolina Raleigh	$372.00
Norway Oslo	416.00
Ohio Cleveland	390.00
Ohio Columbus	351.00
Oklahoma Tulsa	323.00
Oregon Portland	315.00
Panama Panama City	205.00
Paraguay Asuncion	160.00
Pennsylvania Harrisburg	303.00
Pennsylvania Philadelphia	315.00
Pennsylvania Pittsburgh	316.00
Peru Arequipa	95.00
Peru Lima East	57.00
Peru Lima North	80.00
Peru Lima South	75.00
Peru Trujillo	36.00
Philippines Bacolod	171.00
Philippines Baguio	200.00
Philippines Cagayan de Oro	178.00
Philippines Cabu	187.00
Philippines Davao	192.00
Philippines Manila	225.00
Philippines Naga	192.00
Philippines Quezon City	215.00
Philippines Quezon City West	225.00
Portugal Lisbon	$286.00
Portugal Porto	265.00
Puerto Rico San Juan	339.00
Reunion	304.00
Samoa Apia	97.00
Scotland Edinburgh	406.00
Singapore	159.00
South Africa Cape Town	300.00
South Africa Johannesburg	275.00
South Carolina Columbia	350.00
South Dakota Rapid City	350.00
Spain Barcelona	330.00
Spain Bilbao	322.00
Spain Las Palmas	409.00
Spain Madrid	350.00
Spain Seville	325.00
Sweden Stockholm	347.00
Switzerland Geneva	481.00
Switzerland Zurich	475.00
Tahiti Pepeete	320.00
Taiwan Taichung	295.00
Taiwan Taipei	298.00
Tennessee Nashville	400.00
Texas Corpus Christi	325.00
Texas Dallas	359.00

AVERAGE MONTHLY COST PER SINGLE MISSIONARY
FOR MONTHS JULY, AUGUST, SEPTEMBER, 1989

Mission	Average	Mission	Average
Texas Ft. Worth	$347.00	Venezuela Maracaibo	$137.00
Texas Houston	350.00	Virginia Roanoke	342.00
Texas San Antonio	327.00	Washington, D.C. North	310.00
Thailand Bangkok	274.00	Washington, D.C. South	360.00
Tonga Nuku'alofa	80.00	Washington Seattle	327.00
Uruguay Montevideo	157.00	Washington Spokane	330.00
Utah Ogden	279.00	West Indies	347.00
Utah Provo	276.00	West Virginia Charleston	335.00
Utah Salt Lake City	236.00	Wisconsin Milwaukee	347.00
Venezuela Caracas	150.00	Zimbabwe Harare	260.00

Missionary Training Center—Provo

	Room and Board	Books and Other Essentials
English-speaking (21 days):	$168.00	$ 40.00 to $ 70.00
Non-English-speaking (8 weeks):	496.00	100.00 to 130.00

APPENDIX B

THE CHURCH OF JESUS CHRIST OF LATTER-DAY SAINTS
Office of the First Presidency
SALT LAKE CITY, UTAH 84444

October 13, 1978

TO ALL STAKE, MISSION, AND DISTRICT PRESIDENTS, BISHOPS AND BRANCH PRESIDENTS IN THE UNITED STATES

Dear Brethren:

As we have witnessed the expansion of missionary work throughout the world, we have been moved by the faith and sacrifice of parents and others who have supported the missionary program through financial contributions. We know that the Lord has richly blessed those who have made such sacrifices, yet we are keenly aware of the increasing costs of missionary work and are anxious that these contributions not become an overwhelming burden to those members who are involved.

When a prospective missionary is recommended for a mission call, we ask that you interview both him and his parents (or whoever will be providing financial contributions toward his missionary service) and counsel with them regarding the nature and use of missionary support money. The parents or donors should be encouraged to provide only the amount needed to support the missionary program in the mission to which the prospective missionary will be assigned. This amount will be indicated by the Church at the time the missionary receives his call letter, and it may be adjusted occasionally by the mission president as circumstances require.

Both the parents and the prospective missionary should understand that missionary support funds are considered contributions to The Church of Jesus of Latter-day

Saints and that the missionary functions as an agent of the Church in receiving such money for use in the missionary program. The missionary is thus entrusted with a sacred stewardship, and he should therefore be counseled to make wise use of these Church funds in performing the labors of his calling. He should be frugal in his expenditures in order to minimize the financial burden on those who are contributing toward the missionary program. Neither should he accumulate an unnecessary surplus of these Church funds; when he is able to reduce his financial needs through careful stewardship, he should so inform the donors. About sixty days before the end of his term of service, if the missionary sees that the contributions he is receiving on behalf of the Church will exceed the financial needs of his mission, he should notify the donors of the amount of money required to enable him to complete his mission assignment so that the donations can be appropriately reduced. Before leaving the mission, the missionary will forward any surplus donations to the mission president so that all missionary contributions are used for the purpose for which they were given to the Church.

Sincerely your brethren,

/s/ Spencer W. Kimball

/s/ N. Eldon Tanner

/s/ Marion G. Romney

The First Presidency